

No. 7:14-CV-219-BR

Defendant.

7]. The parties held a meet and confer on Wednesday, January 23, but were unable to reach complete agreement on a protocol. [DE-57] at 3. Defendant filed the instant motion on Friday, January 25, after the close of business, and Plaintiffs filed a response in opposition on Sunday, January 27.

Defendant's delay in pursuing a new inspection protocol is inexplicable. Plaintiffs made their position regarding use of the Discovery Pool protocol known on December 19, yet Defendant did not propose a new protocol until January 21, eight days prior to the time for inspections to begin. Moreover, Defendant's delay has resulted in an eleventh-hour motion to compel seeking a hearing on the eve of inspections. Given the timing of the motion and the court's heavy criminal docket today, the requested hearing cannot be accommodated. Local Civ. R. 7.1(j) (hearings may be ordered at the court's discretion).

Turning to the substantive provisions in dispute, the court finds no good cause for the parties to diverge from the prior agreed to Discovery Pool protocol [DE-57-1] and related stipulation [DE-57-6], Master Case, No. 5:15-CV-13 [DE-250], except (i) Defendant shall be allowed a 12-person inspection team and shall endeavor to complete an inspection within four hours in order to accommodate the time for air sampling, and (ii) where both sides have agreed to a modification. Accordingly, the motion is allowed in part and denied in part.

SO ORDERED, this 28th day of January 2019.



Robert B. Jones, Jr.
United States Magistrate Judge